

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RICO SANDERS,

Petitioner,

v.

Case No. 11-cv-868

**BRIAN FOSTER, Warden,
Green Bay Correctional Institution.**

ORDER

On September 24, 2011, Rico Sanders filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. As part of his habeas corpus petition, petitioner moved this court to stay the proceedings in this case to give him the opportunity to exhaust one of his claims in state court. I screened the case as required by Rule 4 of the Rules Governing § 2254 Cases, and I granted petitioner's motion to stay the proceedings after the state indicated that it did not oppose the motion. On March 16, 2015, I granted petitioner's request to continue to stay this proceeding to give petitioner an opportunity to exhaust a new claim in state court after the state did not object.

On September 4, 2015, petitioner filed a motion asking me to "allow the petitioner to postpone the filing of his motion [for] post conviction relief, Pursuant to Sec. 974.06 Stat. in the Wisconsin courts until the Supreme Court of the United States decision in *Montgomery v. Louisiana*." Petitioner must file any motions for post-conviction relief under Wisconsin law in Wisconsin state courts. While I have the power to stay the proceedings and extend deadlines in this federal habeas case, I do not have the authority to stay state court proceedings or extend state court deadlines. Petitioner must request such relief in state court. However, I note that this federal habeas action continues to remain stayed

pending petitioner's exhaustion of claims in state court.

THEREFORE, IT IS ORDERED that petitioner's motion to postpone the filing of his state court post conviction motion (ECF No. 15) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 11th day of September, 2015.

s/ Lynn Adelman

LYNN ADELMAN
District Judge